

Message Text

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SUBJECT: GOZ ANNOUNCES LIBERALIZATION MEASURES CONCERNING
SIGNIFICANT NUMBER OF FOREIGN BUSINESSES PREVIOUSLY TAKEN OVER
BY GOZ

REF: KINSHASA 10161 AND 10464

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1. SUMMARY: GOZ HAS ANNOUNCED A SERIES OF LIBERALIZATION
MEASURES IMPLEMENTING POLICY CHANGES ANNOUNCED IN MOBUTU'S
SPEECH OF NOVEMBER 25, 1975. THEY INCLUDE (1) THE RETURN
TO FOREIGN OWNERS OF 40 PER CENT OF THEIR RADICALIZED BUSIN-
NESSES, (2) THE TURN OVER TO ZAIRIANS OF PART OF THE
REMAINING 60 PERCENT OF THESE FOREIGN BUSINESSES WITH
COMPENSATION TO BE PAID, (3) THE RETURN TO THEIR FORMER
ZAIRIAN OWNERS OF SOME RADICALIZED BUSINESSES, (4) THE
FULL RESTITUTION OF THE PROPERTY OF FOREIGNERS 60 YEARS OF
AGE OR OVER WHO HAVE WORKED FOR A LONG TIME IN ZAIRE.

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MEASURES INVOLVE CERTAIN AMBIGUITIES WHICH MUST BE
RESOLVED LATER. REACTION OF FIRMS TO MEASURES EXPECTED
TO VARY WIDELY. AMERICAN BUSINESS INTERESTS SPECIFICALLY
AFFECTED ARE TEXACO, MOBIL, AND THE ALHADEF INTERESTS.

2. RETURN OF 40 PER CENT OF FOREIGN BUSINESS: IN A SPEECH BEFORE A SPECIALLY CONVOKED ASSEMBLY OF DELEGATES GENERAL AND FORMER PROPERIETORS, FINANCE MINISTER BOFOSSA, SPEAKING FOR THE STABILIZATION COMMISSION, ANNOUNCED DECEMBER 30 A SERIES OF MEASURES, INCLUDING THE ACROSS-THE-BOARD RETURN OF 40 PER CENT OF MUCH OF THE RADICALIZED PROPERTY OF FOREIGNERS WHO INVESTED IN ZAIRE BETWEEN 1965 AND 1974. THE REMAINING 60 PER CENT STAYS UNDER GOVERNMENT CONTROL BUT GOVERNMENT WILL RESERVE THE RIGHT TO TURN OVER PART OF THE REMAINING 60 PER CENT TO INDIVIDUAL ZAIRIANS. THE EXACT AMOUNT TURNED OVER TO INDIVIDUAL ZAIRIANS WILL VARY ACCORDING TO THE CASE AND WILL BE DETERMINED BY THE STABILIZATION COMMISSION. CONCERNING COMPENSATION, BOFOSSA SAID THAT ZAIRIAN SHAREHOLDERS AND THE FOREIGN BUSINESSES INVOLVED SHOULD DETERMINE ARRANGEMENTS FOR THE EVALUATION OF CAPITAL AND THE METHOD OF PAYMENT. IN CASES OF CONFLICT, THE STABILIZATION COMMISSION WILL DETERMINE THE EVALUATION OF CAPITAL AND THE METHOD OF PAYMENT.

3. ZAIRIAN PROPERTIES RADICALIZED: BOFOSSA ANNOUNCED THAT RADICALIZED BUSINESSES BELONGING TO ZAIRIANS BEFORE ZAIRIANIZATION WILL BE RETURNED (APPARENTLY IN TOTO), WITH THE EXCEPTION OF SGA, UZAM, STK, AND BANQUE DE KINSHASA. BUSINESSES ACQUIRED BY ZAIRIANS AS A RESULT OF ZAIRIANIZATION WHICH WERE SUBSEQUENTLY RADICALIZED, REMAIN RADICALIZED. APPARENTLY NO U.S. INTERESTS FALL IN THIS SPECIFIC CATEGORY.

4. FOREIGNERS 60 YEARS OF AGE OR OLDER: BOFOSSA ANNOUNCED THAT FOREIGN PROPERTY OWNERS OVER 60 YEARS OF AGE WHO HAD WORKED FOR A LONG TIME IN ZAIRE, MAKING IT THEIR SECOND HOME, WOULD BE RETURNED ALL THEIR PROPERTY.

5. OTHER FOREIGN BUSINESSES NOT UNDER INVESTMENT CODE: BOFOSSA ANNOUNCED THAT THE OWNERS OF UNRADICALIZED LIMITED OFFICIAL USE LIMITED OFFICIAL USE

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AND UNZAIRIANIZED FOREIGN ENTERPRISES NOT PROTECTED BY THE INVESTMENT CODE SHOULD SEEK ZAIRIAN PARTNERS TO WHOM THEY SHOULD SELL 60 PER CENT OF THEIR BUSINESSES. THE FOREIGN OWNERS WILL KEEP THE REMAINING 40 PER CENT. THIS MEASURE MAY AFFECT SOME U.S. COMPANIES.

6. PETTY COMMERCE: PETTY COMMERCE AND SMALL-SCALE PLANTATIONS NOT PART OF AGRO-INDUSTRIAL COMPLEXES REMAIN RESERVED TO ZAIRIAN NATIONALS.

7. MANAGEMENT AND OWNERSHIP: DAY-TO-DAY MANAGEMENT OF MIXED ZAIRIAN-FOREIGN BUSINESSES WILL BE CONFERRED TO

PERSONS CHOSEN PURELY ON THE BASIS OF COMPETENCE. THE ZAIRIAN SHAREHOLDER WILL BE CONSIDERED THE OWNER. DELEGATES GENERAL WILL STAY, SERVING IN THE CAPACITY OF REPRESENTATIVES OF THE STATE.

8. AMERICAN BUSINESS INTERESTS SPECIFICALLY AFFECTED: AMONG 83 FIRM LISTED AS AFFECTED BY THE DECISION TO RETURN 40 PER CENT OF RADICALIZED FORIENG BUSINESS WAS PETORZAIER WHICH NOW HOLDS ASSETS FORMERLY OWNED BY TEXACO AND MOBIL. ALSO INCLUDED ON THE LIST WERE THE FOLLOWING ALHADEFF BUSINESSES: (A)SODISTRI, (B)FRANCO-PLAST, (C) JOCK, (D) AMBASSADOR, (E) BOISSON NATIONAL.

9. LIST NOT EXHAUSTIVE: BOFOSSA ADDED THAT THE LIST OF 83 FIRMS AFFECTED IS NOT EXHAUSTIVE AND THAT IT WILL BE NECESSARY TO ADD TO THE LIST BUSINESSES WHICH HAVE BENEFITS UNDER THE INVESTMENT CODE BUT WHICH WERE NEVER-THELESS RADICALIZED. THE STABILIZATION COMMISSION RESERVES THE RIGHT TO EXAMINE INDIVIDUAL CASES

10. FOREIGN INVESTMENT POLICY: BOFOSSA NOTED THAT THE CONCERN OF PRESIDENT MOBUTU WAS TO CREATE A CLIMATE AS PROPITIOUS FOR FOREIGNERS AS FOR ZAIRIAN NATIONALS. INVESTORS MUST, HOWEVER, CONFORM TO THE LAWS OF ZAIRE. AS SUPPORT FOR THE IDEA THAT ZAIRE WILL CONTINUE TO OFFER PROTECTION AND ENCOURAGEMENT TO FOREIGN INVESTORS, BOFOSSA QUOTED FROM MOBUTU'S NOVEMBER 30, 1973 "ZAIRIANIZATION" SPEECH WHERE MOBUTU SAID THAT GOOD INVESTMENTS WOULD NOT ONLY BE PROTECTED BUT WOULD BE AIDED AND ENCOURAGED.
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1. THE NEW MEASURES ARE TO TAKE EFFECT AS OF JANUARY 2, 1976.

12. BACKGROUND: IN RECENT YEARS PROPERTIES HAVE MOVED FROM PRIVATE AND/OR FOREIGN CONTROL TO ZAIRIAN AND/OR STATE CONTROL VIA SEVERAL SETS OF MEASURES. THE TWO MOST SWEEPING WERE: (1)ZAIRIANIZATION, WHICH TOOK PLACE FOLLOWING A PROGRAM ANNOUNCED IN NOVEMBER 1973 AND WHICH TRANSFERRED FOREIGN-OWNED BUSINESSES AND AGRICULTURAL UNDERTAKING TO PRIVATE ZAIRIAN OWNERSHIP; AND (2)RADICALIZATION, WHICH FLOWED FROM THE PROGRAM ANNOUNCED IN DCEMBER 1974 AND WHICH PUT ALL LARGE BUSINESSES (WHETHER INFOREIGN OR ZAIRIAN HANDS), EXCEPT THOSE PROTECTED BY THE INVESTMENT CODE, UNDER STATE CONTROL. OTHER MEASURES WERE: THE 173 NATIONALIZATION OF THE COMMERCIAL PETROLEUM SECTOR (MOBIL, PETROFINA, TEXACO, SHELL); THE 1975 NATIONALIZATION OF THE CONSTRUCTION INDUSTRY; AND THE 1975 NATIONALIZATION OF THE PHARMACEUTICAL IMPORTING, STOCKING, AND DISTRIBUTING INDUSTYR. THE LIST OF FIRMS TO BE RETURNED 40 PER CENT TO THEIR

FORMER OWNERS INCLUDES SOME FROM EACH CATEGORY OF THE ABOVE MEASURES EXCEPT THE PHARMACEUTICAL.

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COMMENT:

13. SHORTLY AFTER ANNOUNCEMENT OF GOZ MEASURES THE DCM TALKED WITH PRESIDENCY DIRECTOR BISENGIMANA WHO STATED THAT LIST OF FIRMS WAS NOT INTENDED TO BE INCLUSIVE AND THAT OTHER FIRMS WOULD BE ADDED TO LIST LATER. IN REPLY TO A SPECIFIC QUESTION, BISENGIMANA INDICATED THAT ALHADEFF PROPERTY INTERESTS AND THE AMERICAN-OWNED COMPANY SABUNI COULD BE INCLUDED AT A LATER DATE. HE ALSO SAID THAT PROFITS FROM THE 60 PERCENT PORTION RETAINED BY THE GOZ COULD BE USED TO PAY COMPENSATION CLAIMS.

14. AMONG THE FACTORS THAT CONTRIBUTED TO THIS DECISION WAS THE RECOGNITION OF THE NECESSITY OF FOREIGN EXPERTISE AND THE ASSUMPTION THAT THE FOREIGNERS HAD EITHER RESOURCES OR LINES OF CREDIT OUTSIDE OF ZAIRE NOT AVAILABLE. END UNCLASSIFIED; BEGIN LIMITED OFFICIAL USE

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ABLE TO THE CURRENT MANAGEMENT OF THESE FIRMS. THEREFORE, IT IS HOPED THAT THE NEWLY RESUSCITATED PROPRIETORS WOULD USE THESE RESOURCES TO HELP TIDE ZAIRE OVER ITS CURRENT FOREIGN EXCHANGE SHORTAGE.

15. BY IMPLICATION, ANNOUNCEMENT INDICATES THAT OLD AND NEW FOREIGN INVESTORS CAN AGAIN PARTICIPATE IN THE AGRICULTURAL SECTOR. THE ZAIRIANIZATION MEASURES HAD, WITH A FEW EXCEPTIONS, COMPLETELY EXCLUDED FOREIGNERS FROM PARTICIPATING IN AGRICULTURAL PROJECTS.

16. AMONG THE REMAINING PROBLEMS FOR AMERICAN INTERESTS, IN ADDITION TO SABUNI AND ALHADEFF MENTIONED ELSEWHERE, ARE THE STOCKS OF PHARMACEUTICAL SUPPLIES TAKEN OVER BY THE STATE AND THE PIAF PHARMACY CHAIN OF WARNER-LAMBERT. WE HAD BEEN INFORMED IN ADVANCE THAT THE NEW MEASURES WOULD NOT OFFER ANY RELIEF TO THE NATIONALIZED PHARMACEUTICAL SECTOR. THE LIKELIHOOD OF COMPENSATION CLAIMS IN THIS AREA IS, THUS, UNDIMINISHED.

17. REACTION OF THE OWNERS OF THE INDIVIDUAL BUSINESSES ARE EXPECTED TO VARY CONSIDERABLY, PRIMARILY DEPENDING UPON THE EXTENT TO WHICH THE FORMER FOREIGN OWNERS HAD REMAINED INVOLVED IN THEIR FORMER BUSINESSES. THOSE FOREIGNERS WHO HAVE REMAINED IN ZAIRE AND HAVE CONTINUED TO BE ACTIVE IN THE OPERATION OF THEIR BUSINESSES WILL ALMOST CERTAINLY WISH TO TAKE ADVANTAGE OF THE GOVERNMENT'S OFFER OF 40 PER CENT OWNERSHIP AND COMPENSATION FOR THE NATIONALIZED PORTION. THOSE FOREIGN OWNERS WHO

HAVE PHYSICALLY WITHDRAWN FROM ZAIRE ARE LESS LIKELY TO
TAKE ADVANTAGE OF THE OFFER, PARTICULARLY WHERE THE BUSINESSES
HAVE BEEN RUN DOWN AND REQUIRE A MAJOR INVESTMENT
OF NEW CAPITAL. INITIAL REACTIONS OF FOREIGN BUSINESSES
REFLECT BOTH EXTREMES. FOR EXAMPLE, BRITISH AMERICAN
TOBACCO REP HAS INDICATED TO EMBOFFS THAT BAT WILL
DEFINITELY WISH TO TAKE UP 40 PER CENT EQUITY INTEREST
AND WILL ASK FOR THE REMAINING 60 PER CENT. ON THE OTHER
HAND, MOBIL REP DUBRULE STATED TO EMBOFF THAT MOBIL MAY
NOT WISH TO ACCEPT THE RETURN OF A PORTION OF ITS FORMER
OWNERSHIP. HE COMMENTED THAT MOBIL'S FORMER LARGE
EXPATRIATE STAFF HAD ALMOST COMPLETELY WITHDRAWN FROM
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ZAIRE AND THAT IT WOULD BE DIFFICULT AND EXPENSIVE TO
HAVE THEM RETURNED TO ZAIRE. HE ADDED THAT, OF COURSE,
THE FINAL DECISION WILL BE MADE BY MOBIL'S NEW YORK
HEADQUARTERS.

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